

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
MATTHEW BURNS,  
Defendant.

Case No. CR19-74RSL

This matter comes before the Court *sua sponte*. On September 30, 2020, the Court conducted a status conference with the parties. At the hearing, the Court requested additional evidence regarding defendant's pending "Motion to Withdraw Guilty Plea" (Dkt. #55). Specifically, the Court has requested that defendant's former counsel, Mr. Gilbert Levy, file a sworn declaration in response to defendant's claims of ineffective assistance of counsel. See generally Dkts. #55, #70. NOW, THEREFORE,

IT IS ORDERED that the attorney-client privilege, as set forth in Rule of Professional Conduct (“RPC”) 1.6, is deemed narrowly waived as to the conduct and competence of Mr. Levy, which has been placed in issue by defendant’s motion to withdraw guilty plea. Cf. Bittaker v. Woodford, 331 F.3d 715, 721-22 (9th Cir. 2003). Mr. Levy is hereby authorized to disclose to the Court and to counsel of record evidence of his otherwise privileged conversations with defendant, and other materials and information regarding his representation of defendant, as related to defendant’s guilty plea and his claims of ineffective assistance of counsel.

1 IT IS FURTHER ORDERED that Mr. Levy shall submit his sworn declaration, as  
2 requested by the Court, on or before October 22, 2020. The declaration shall be filed under seal.

3 IT IS FURTHER ORDERED that, absent any further orders by the Court, the  
4 information provided by Mr. Levy pursuant to this order shall remain confidential and shall be  
5 used by the parties solely for the purposes of litigating the pending motion to withdraw guilty  
6 plea. The evidence provided shall not be admissible against defendant in any other proceedings.  
7 This order shall remain in effect even after the Court has ruled on the motion to withdraw guilty  
8 plea. Both parties retain the right to apply to the Court for modification of this order.

9 The Clerk of Court is directed to send copies of this order to Mr. Gilbert Levy and to all  
10 counsel of record.

11 IT IS SO ORDERED.

12 DATED this 30<sup>th</sup> day of September, 2020.

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15 Robert S. Lasnik  
16 United States District Judge  
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